



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**

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October 30, 2009

Ms. Susan K. Haberstroh  
Education Associate  
Department of Education  
401 Federal Street, Suite 2  
Dover, DE 19901

RE: 13 DE Reg. 449 [DOE Proposef School Bus Replacement Schedule Regulations]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOEs) proposal to amend its regulations covering replacement of school buses published as 13 DE Reg. 449 in the October 1, 2009 issue of the Register of Regulations. As background, the DOE notes that the National Association of State Directors of Pupil Transportation Services suggests a 12-15 year lifetime for school buses under normal operating conditions. The current Delaware regulation requires replacement after 12 years. See §20.2.1 of proposed regulation. The DOE also observes that the Legislature is prompting the DOE to change the replacement standard from 12 years to 14 years: The amendment changes the mandatory replacement age of a school bus from 12 to 14 years. The change was mandated in Section 410 of the Grants-in-Aid House Bill 295 of the 145<sup>th</sup> General Assembly. SCPD has the following observations.

First, the attached §33 of the FY 10 Grant-in-Aid legislation amends the FY 10 appropriations bill by adding the following provision: "The Department of Education is authorized to promulgate rules and regulations to change the mandatory bus replacement from 12 to 14 years." Although this language literally authorizes, but does not require, the DOE to change the replacement period, the Legislature ostensibly expects the DOE to adopt the change.

Second, SCPD has a technical concern with the regulations. As amended, it reads as follows:

20.2. The following age and mileage requirements apply:

20.2.1. ~~12~~<sup>th</sup> 14<sup>th</sup> year shall be replaced (it may then be used as a spare); or

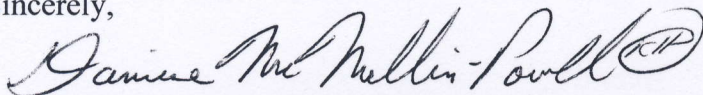


- 20.2.2. 190,000 miles no matter age of bus; or
- 20.2.3. 9 years and 130,000 miles; or
- 20.2.4. May be replaced after 10 years.

Subsections 20.2.1 and 20.2.4 contain verbs which clarify that replacement is mandatory after 14 years ("shall be replaced") or optional after 10 years ("may be replaced"). In contrast, Subsections 20.2.2 and 20.2.3 lack clarifying verbs. One can only speculate whether reaching 190,000 miles or 9 years with 130,000 miles makes replacement mandatory or optional. The DOE should consider clarifying the significance of reaching the milestones in Subsections 20.2.2 and 20.2.3:

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulations.

Sincerely,



Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

cc: The Honorable Lillian Lowery  
Dr. Teri Quinn  
Ms. Martha Toomey  
Ms. Paula Fontello, Esq.  
Ms. Mary Cooke, Esq.  
Mr. Charlie Michels  
Mr. Brian Hartman, Esq.  
Developmental Disabilities Council  
Governor's Advisory Council for Exceptional Citizens

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HB 290  
FY10 Govt - 10 - And B.11  
Signed 7-1-09

1105 Section 33. Amend the Fiscal Year 2010 Appropriations Act (House Bill 290 of the 145<sup>th</sup> General Assembly) by  
1106 adding a new Section 410 to read as follows:

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1107 "Section 410. The Department of Education is authorized to promulgate rules and regulations to change the  
1108 mandatory bus replacement from 12 to 14 years."

1109 Section 34. Amend the Fiscal Year 2010 Appropriations Act (House Bill 290 of the 145<sup>th</sup> General Assembly) by  
1110 adding the following to Section 33(a): "2009 10-02-11-01-98 One-Time".

1111 Section 35. Amend the Fiscal Year 2010 Appropriations Act (House Bill 290 of the 145<sup>th</sup> General Assembly) by  
1112 inserting a new section after Section 238 and renumbering all sections accordingly:

1113 "Section 239 The General Assembly encourages the Department of Correction to seek ideas on improved and  
1114 more efficient health care services for inmates prior to finalizing the Request for Proposal for health care services."

1115 Section 36. (a) Pursuant to 7 Del. C. c. 17, it is the intent of the General Assembly that the contract for statewide  
1116 dog control with Kent County SPCA, or its successor, shall be extended. During the extended contract period, the  
1117 department shall maintain all administrative responsibilities for the statewide dog control program.

1118 (b) For the term of any contract extension, the department shall continue to sell dog licenses using the existing fee  
1119 structure and may retain up to \$25.0 in special fund revenue to administer the program. The remaining revenue collected  
1120 from the sale of dog licenses shall be applied towards the statewide contractual obligation. The remaining contractual  
1121 obligation shall be borne by the counties in a prorated amount as previously determined by negotiations. Each county shall  
1122 pay 50 percent of their obligation by July 31 and the remaining 50 percent by December 31.

1123 (c) It is the intent of the General Assembly that the department shall work with the counties to transfer full  
1124 authority and control of the statewide dog control program no later than December 31, 2010. Any dog license purchased  
1125 from the department shall remain valid through the expiration date noted, upon which a county license shall be purchased.

1126 (d) Upon passage of HB 233 in the 145<sup>th</sup> General Assembly, subsection (a), (b) and (c) will become null and void.

1127 Section 37. Amend the Fiscal Year 2010 Appropriations Act (House Bill 290 of the 145<sup>th</sup> General Assembly) by  
1128 deleting the figure "\$1,391.9" as it appears on page 17, line 9 and insert in lieu thereof the figure "\$1,891.9".

1129 Section 38. Amend the Fiscal Year 2010 Appropriations Act (House Bill 290 of the 145<sup>th</sup> General Assembly) by  
1130 deleting the figure "\$1,842.5" as it appears on page 17, line 21 and insert in lieu thereof the figure "\$2,342.5".

1131 Section 39. Amend the Fiscal Year 2010 Appropriations Act (House Bill 290 of the 145<sup>th</sup> General Assembly) by  
1132 adding a new section after Section 19 as it appears on page 90 of said bill to read as follows:

1133 "The Medicaid Part D Retiree Drug subsidy may be transferred to the Office of Management and Budget with the  
1134 concurrence of the Controller General and the Director of the Office of Management and Budget."